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and Xiaoming Zhang

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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BANK OF COMMUNICATIONS, 07 civ. 4628 (TPG)  
NEW YORK BRANCH,  
Plaintiffs,

-against-

OCEAN DEVELOPMENT AMERICA, INC.,  
HONGMING LI a/k/a MICHAEL LI and  
XIAOMING ZHANG,

Defendants  
-----X

**DECLARATION OF BING LI IN OBJECTION TO  
PLAINTIFF'S IMPROPER FILING OF SUR-REPLY**

BING LI, declares under penalty of perjury as follows:

1. I am a member of the Law Offices of Bing Li, LLC, attorneys for defendants Hongming Li and Xiaoming Zhang, who are presently moving pursuant to Rule 60(b) for relief from a default judgment entered in this action.

2. I respectfully submit this Declaration in objection to plaintiff's filing of a Sur-Reply because its filing was not authorized by the court rules and plaintiff did not move for leave of court for the filing. See e.g. Colida v. Nokia America Corporation, 05 Civ. 9920, 2006 WL 2597902, at \*4 (S.D.N.Y. Sept. 11, 2006) (Pitman, M.J.) (refusing to consider a sur-reply in deciding a pending motion because it was filed without leave of court) (citing Nat. Fuel Gas. Distrib. Corp. v. TGX Corp., CIV-84-1372, 1992 WL 49996 at \*2 (W.D.N.Y. Mar. 2, 1992)).

3. Nor does the Sur-Reply add anything new to plaintiff's fallacious and self-defeating arguments made in its opposition. For example, despite the reference to the "Revolving Note," the **individual** defendants were nonetheless **not** parties to this contract (or the Credit Agreement or any loan agreements) and the mere fact that one individual defendant (Xiaoming Zhang) signed this Revolving Note does not and cannot transmute into any basis for her individual liability.

4. Therefore, the Court is requested to disregard the Sur-Reply and strike same from the docket.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed on August 1, 2008  
New York, New York

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/s/  
Bing Li (BL 5550)